

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JANE DOE,

Plaintiff.

- against -

NIAGARA UNIVERSITY,

Defendant.

PLAINTIFF'S AFFIDAVIT

Civil Action No:

STATE OF CALIFORNIA)
 : ss.:
COUNTY OF SANTA CLARA)

RACHEL GARDNER, being duly sworn, deposes and states:

1. I am over the age of 18, a citizen of the State of California, and the plaintiff identified above as JANE DOE.

2. I have read the Complaint, instant motion and Memorandum of Law prepared by my attorneys, and the information contained therein is an accurate recitation of what happened to me in October of 2022, November of 2022, and thereafter.

3. In the fall of 2022, I was a scholarship student athlete on the swimming team at Niagara University.

4. On October 23, 2022, I was raped and sexually assaulted by a male teammate.

5. On October 25, 2022, I reported the rape to a therapist at Niagara University.

6. On the same day, at the therapist's urging, I met with Niagara's Deputy Title IX Coordinator and gave a written and recorded statement.

7. From that day forward, Niagara University did absolutely nothing to address the situation with me. I felt alone and frightened for my safety.

8. After I reported the rape and sexual assault, I was confronted both physically and verbally by my teammates in an attempt to intimidate and coerce me to withdraw my complaint and "be quiet."

9. As a result of the emotional and physical toll this took on me, I had no choice but to withdraw from school.

10. As a result of the rape and the subsequent harassment and intimidation I suffered, which is the subject of this lawsuit, I continue to suffer mental, psychological and emotional harm. I have experienced feelings of shame, embarrassment, sadness, anger, depression, anxiety and confusion from the rape and harassment inflicted on me, as well as being forced to withdraw from Niagara University and lose my athletic scholarship.

11. The sexual assault has caused me extreme emotional suffering, including, but not limited to, problems sleeping and concentrating, loss of self-esteem, self-confidence and self-respect, feelings of worthlessness, feeling shameful and embarrassed, feeling confused, isolated and alone, and fearing further retaliation from the assailant who knows where I reside in California with my family.

12. In addition, in the months after I left Niagara University, I received multiple harassing communications from my former teammates. I am fearful that if my identity is disclosed in this lawsuit, it will invite further harassment and attempts at intimidation by my former teammates and others.

13. These traumatic experiences have caused me everlasting damage and I would like to preserve my privacy in this matter of a sensitive and highly personal nature. Disclosing my identity to my friends, family, fellow swim competitors, co-workers or prospective future

employers would pose a risk to me of further mental harm, harassment, ridicule and personal embarrassment. It is for this reason that I would like to proceed anonymously as "JANE DOE".

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 18, 2023


RACHEL GARDNER